

BEFORE THE SEATTLE ETHICS AND ELECTIONS COMMISSION

In the matter of) No. 15-2-1027-1
)
Councilmember TIM BURGESS) SETTLEMENT AGREEMENT
)

This settlement is made between Councilmember Tim Burgess and the Executive Director of the Seattle Ethics and Elections Commission (the "Director"). Upon approval by the Seattle Ethics and Elections Commission (the "Commission"), the following findings, conclusions and agreements shall be binding upon Councilmember Burgess, the Director, and the Commission (the "Parties"), and their successors, heirs and assigns, and shall constitute the complete agreement between the Parties.

Councilmember Burgess and the Director agree to the following:

FINDINGS OF FACT

1. Councilmember Burgess was elected to the Seattle City Council in 2007.
2. Councilmember Burgess has an official City Council webpage. This page provides visitors with links to several social media sites. One link sends visitors to a Twitter page titled "Councilmember Tim."
3. Unlike with Facebook, Councilmember Burgess did not establish both an official Twitter account and a personal Twitter account. He has only one Twitter account.
4. Between October 1, 2014 and August 30, 2015, Councilmember Burgess's Twitter account promoted via tweets or retweets of content posted by others (1) the City's preschool initiative that appeared on the November 2014 general election ballot, and (2) his reelection to the City Council. Examples are appended to this Settlement as Exhibits A, B, C and D.
5. Commission staff contacted Councilmember Burgess's office on October 27, 2015, informed the Councilmember's staff that the Director believed the tweets were inappropriate and the posts were immediately removed.
6. Councilmember Burgess and his staff fully cooperated with the Director and Commission staff during this investigation. Commission staff uncovered no evidence that Councilmember Burgess or his staff deliberately violated the Elections Code.

CONCLUSIONS OF LAW

7. The Seattle Elections Code, SMC 2.04.300, states that “[n]o elected official nor any employee of his or her office...may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.”

8. On May 4, 2011, the Seattle Ethics and Elections Commission adopted Advisory Opinion 11-02E, “Elected Officials’ Use of Social Media.” Under the “Guidance” section the Advisory Opinion states: : **“Elected officials and the City employees who answer to them may not provide visitors to City web sites, or recipients of City communications, with links to sites that contain campaign advocacy or information about how to contact or learn about campaigns.”**...

9. When Councilmember Burgess tweeted campaign advocacy in 2014 and retweeted three posts made by others in 2015 on an account linked to from his official City Council web page, he violated SMC 2.04.300.

AGREEMENT

10. Councilmember Burgess acknowledges that he violated the Elections Code by tweeting campaign advocacy and retweeting campaign advocacy made by others on his Twitter page, which can be accessed via a link at the corner of his official City Council web page. Had Councilmember Burgess not tweeted or retweeted these posts, no violation would have occurred.

11. Within five business days of the approval of this settlement, Councilmember Burgess agrees to pay the City of Seattle \$150 for his violation of SMC 2.04.300.

12. The Parties agree that this settlement agreement, upon the Commission’s approval, will constitute, insofar as is legally possible, a full and final settlement between the Parties, as to all facts, actions, controversies and matters that have occurred or may have occurred, as described herein, related to Councilmember Burgess’s use of his Twitter account through October 30, 2015, to promote a ballot measure and his candidacy, and do forever release, acquit and discharge each party, its present or former officials, employees, agents, representatives, heirs and assigns from all present claims, demands, damages, costs (specifically including attorney’s fees and costs), actions or causes of action arising, during the aforementioned time period, out of all facts, actions, controversies and matters that have occurred, or may have occurred or in any way related to Councilmember Burgess’s use of his Twitter account for campaign advocacy, and the acts or omissions of the Commission, its

members, agents or employees in handling the matter filed under Ethics and Elections Commission Case No. 15-2-1027-1 and any events related thereto.

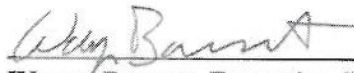
13. The Parties agree that the Commission's review of this settlement agreement does not preclude the Commission from hearing this case in the event that the Commission rejects this agreement and calls for a hearing, or in the event, that Councilmember Burgess rejects any Commission modification of this agreement and requests a hearing.

14. The Parties agree that if Councilmember Burgess breaches this agreement the Commission will be entitled to hold a special meeting or a regular meeting to issue a determination that he has violated the Elections Code. Under the municipal code, the Commission may impose a fine of up to \$5,000 per violation, and may require costs that do not exceed the amount of any monetary fine.

15. The Parties agree that this settlement incorporates and supersedes any and all other oral and written agreements and assurances of any and all kinds between the parties, and that there are no other written or oral agreements that alter or modify this agreement.



Councilmember Tim Burgess
Date: November 30, 2015



Wayne Barnett, Executive Director
Date: November 30, 2015

